



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 36]

नई दिल्ली, गुरुवार, अगस्त 13, 2015/ श्रावण 22, 1937 (शक)

No. 36] NEW DELHI, THURSDAY, AUGUST 13, 2015/SHRAVANA 22, 1937 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 13th August, 2015:—

BILL No. 229 OF 2015

A Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the High Court and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2015.

Short title and
commencement.

(2) The provisions of section 8 shall be deemed to have come into force on the 1st day of April, 2004 and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (SALARIES AND
CONDITIONS OF SERVICE) ACT, 1954Amendment of
section 2.

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 2,—

28 of 1954.

(a) in sub-section (1),—

(i) in clause (b), the words, brackets and figures "under sub-section (2) of section 222 of the Government of India Act, 1935 or" shall be omitted;

(ii) in clause (d), the words, brackets and figures "under sub-section (3) of section 222 of the Government of India Act, 1935 or" shall be omitted;

(iii) clause (e) shall be omitted;

(b) in sub-section (2), for the words "previous service for any period or periods as acting Judge or additional Judge or as a Judge of a former Indian High Court", the words "service for any period or periods as acting Judge or additional Judge" shall be substituted;

(c) sub-sections (3) and (4) shall be omitted.

Amendment of
section 3.

3. In the High Court Judges Act, in section 3, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) For the purposes of this Chapter, casual leave may be admissible to a Judge in a calendar year, for such number of days and subject to such conditions as may be prescribed."

Amendment of
section 4A.

4. In the High Court Judges Act, in section 4A, for the words "in respect of the period of earned leave at his credit", the words "in respect of the period of leave at his credit, calculated on full allowances basis," shall be substituted.

Substitution of
new section
for section 9.

5. In the High Court Judges Act, for section 9, the following section shall be substituted, namely:—

Leave
allowances.

"9. The monthly rate of leave salary payable to a Judge shall be in accordance with the provisions of sub-section (1) of section 3."

Omission of
section 10.

6. In the High Court Judges Act, section 10 shall be omitted.

Amendment of
section 14.

7. In the High Court Judges Act, in section 14, in the first proviso,—

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) he has attained the age of sixty-two years; or";

(ii) for the *Explanation*, the following shall be substituted, namely:—

*'Explanation.—*In this section "Judge" means a Judge who has not held any other pensionable post under the Union or a State and includes a Judge who having held any other pensionable post under the Union or a State has elected to receive the pension payable under Part I of the First Schedule.*'*

Insertion of
new section
14A.

8. In the High Court Judges Act, after section 14, the following section shall be inserted, namely:—

Benefit of
added years of
service.

"14A. Subject to the provisions of this Act, a period of ten years shall be added and shall be deemed to have been added from the 1st day of April, 2004 for the purposes of pension, to the service of a Judge who is appointed as such Judge under sub-clause (b) of clause (2) of article 217 of the Constitution."

Amendment of
section 15.

9. In the High Court Judges Act, in section 15,—

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) in clause (b), the words "is not a member of the Indian Civil Service but" shall be omitted;

(iii) in the proviso for the words and figures "as the case may be, Part II or" shall be omitted;

(b) in sub-section (2), the words and figures "Part II or, as the case may be" shall be omitted.

10. In the High Court Judges Act, in section 16, in the proviso, the words and figures "Part II or" shall be omitted. Amendment of section 16.

11. In the High Court Judges Act, in section 17A,—

Amendment of section 17A.

(a) in sub-section (1), in the *Explanation*, in clause (ii), the words and figures "Part II or " shall be omitted;

(b) in sub-section (2), the words and figures "Part II or " shall be omitted.

12. In the High Court Judges Act, section 18 shall be omitted.

Omission of section 18.

13. In the High Court Judges Act, in section 20,—

Amendment of section 20.

(a) in the first proviso, the words "is a member of the Indian Civil Service or" shall be omitted;

(b) the second proviso shall be omitted.

14. In the High Court Judges Act, section 23B shall be omitted.

Omission of section 23B.

15. In the High Court Judges Act, in section 24, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 24.

"(aa) the number of casual leaves and the conditions subject to which it may be allowed under sub-section (3) of section 3;"

16. In the High Court Judges Act, section 25 shall be omitted.

Omission of section 25.

17. In the High Court Judges Act, in the First Schedule,—

Amendment to First Schedule.

(a) in Part I,—

(i) for paragraph 1, the following paragraph shall be substituted, namely:—

"1. The provisions of this Part apply to a Judge who has not held any other pensionable post under the Union or a State or a Judge who having held any other pensionable post under the Union or a State has elected to receive the pension payable under this Part.";

(ii) in paragraph 2, for the words "and who has completed not less than seven years of service" shall be omitted;

(iii) paragraphs 8 and 9 shall be omitted.

(b) Part II shall be omitted.

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958

41 of 1958.

18. In the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), in section 2, in clause (g), for the words "either in the Federal Court or in the Supreme Court or in any such Court", the words "in the Supreme Court" shall be substituted.

Amendment of section 2.

19. In the Supreme Court Judges Act, in section 3, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 3.

"(3) For the purposes of this Chapter, casual leave may be admissible to a Judge in a calendar year, for such number of days and subject to such conditions as may be prescribed."

- Amendment of section 4A. **20.** In the Supreme Court Judges Act, in section 4A, for the words "in respect of the period of earned leave at his credit", the words "in respect of the period of leave at his credit, calculated on full allowances basis," shall be substituted.
- Substitution of new section for section 9. **21.** In the Supreme Court Judges Act, for section 9, the following section shall be substituted, namely:—
- Leave allowances. "9. The monthly rate of leave salary payable to a Judge shall be in accordance with the provisions of sub-section (1) of section 3."
- Amendment of section 13. **22.** In the Supreme Court Judges Act, in section 13, for the *Explanation*, the following *Explanation* shall be substituted, namely:—
- ‘*Explanation.*—In this section, “Judge” means a Judge who has not held any other pensionable post under the Union or a State and includes a person who was in service as a Judge on the 20th May, 1954, and also includes a Judge having held any other pensionable post under the Union or a State, who has elected to receive the pension payable under Part I of the Schedule.’
- Amendment of section 14. **23.** In the Supreme Court Judges Act, in section 14,—
- (a) for sub-section (1), the following sub-section shall be substituted, namely:—
- "(1) Every Judge who has held any other pensionable post under the Union or a State shall, on his retirement, be paid a pension in accordance with the provisions of Part III of the Schedule:
- Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the Schedule, or as the case may be, Part III of the Schedule, and the pension payable to him shall be calculated accordingly.”;
- (b) in sub-section (2), the words and figures "Part II or, as the case may be," shall be omitted.
- Amendment of section 16A. **24.** In the Supreme Court Judges Act, in section 16A in sub-section (1), in the *Explanation*, in clause (ii), the words and figures "Part II or" shall be omitted.
- Omission of section 18. **25.** In the Supreme Court Judges Act, section 18 shall be omitted.
- Amendment of section 20. **26.** In the Supreme Court Judges Act, in section 20, in the first proviso, the words "is a member of the Indian Civil Service or" shall be omitted.
- Amendment of section 24. **27.** In the Supreme Court Judges Act, in section 24, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—
- "(aa) the number of casual leaves and the conditions subject to which it may be allowed under sub-section (3) of section 3."
- Amendment of Schedule. **28.** In the Supreme Court Judges Act, in the Schedule,—
- (a) in Part I, for paragraph 1, the following paragraph shall be substituted, namely:—
- "1. The provisions of this Part apply to a Judge who has not held any other pensionable post under the Union or a State and also apply to a person who was in service as a Judge on the 20th May, 1954, and to a Judge who, having held any other pensionable posts under the Union or a State, has elected to receive the pension payable under this Part."
- (b) Part II shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958. With the passage of time, certain provisions in the aforesaid Acts have become spent and out-dated. A review has been undertaken and it has been decided to remove the same for clarity and provide for the added years of service in view of the judgment given by the Supreme Court. Some of the provisions relating to determination of leave allowances of judges in both the Acts needed to be simplified.

2. In this regard, it may be mentioned that in a Writ Petition (Civil) No. 521/2002 filed in the Hon'ble Supreme Court, prayer was made for addition of ten years practice as an advocate to the service as a Judge of High Court for the purpose of computing pension admissible under Part I of the First Schedule to the Act, 1954 on the analogy of added years of service *i.e.* ten years practice at Bar, provided to Supreme Court Judges. As per provision under section 13A of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, a Judge of Supreme Court, appointed under article 124(3)(b) of the Constitution, is entitled to addition of ten years practice at the Bar to their actual qualifying service for pension. The Hon'ble Supreme Court had, *inter alia*, allowed the prayer *vide* judgment dated the 31st March, 2014 directing that "for pensionary benefit, ten years practice as an Advocate be added as qualifying service for Judges elevated from the Bar with effect from the 1st April, 2004, the date on which section 13A was inserted by the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2005 (46 of 2005).".

3. This Bill seeks to achieve the above objectives.

NEW DELHI;
The 6th August, 2015.

D.V. SADANANDAGOWDA

FINANCIAL MEMORANDUM

Clause 8 of the Bill seeks to insert a new section 14A after section 14 of the High Court Judges (Salaries and Conditions of Service) Act, 1954 to provide with retrospective effect from 1st April, 2004 for addition of a period of ten years for the purposes of pension to the service of a Judge who is appointed under article 217(2) (b) of the Constitution.

The additional expenditure in respect of the Judges of High Courts is to be borne by the concerned State Governments under article 290 of the Constitution. The Bill, if enacted and brought into operation, will involve an additional recurring expenditure from the Consolidated Fund of India on account of revision of pension. The non-recurring expenditure on account of payment of arrears of pension retrospectively would be about rupees six to seven crores and an expenditure of recurring nature to the tune of rupees seventy-five lakhs per annum.

The Bill does not involve any other expenditure of either recurring or non-recurring nature.

THE FIRST SCHEDULE

(See sections 14 and 15)

PENSIONS OF JUDGES

PART I

1. The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other pensionable post under the Union or a State or a State and also apply to a Judge who, being a member of the Indian Civil Service or having held any other pensionable post under the Union or a State, has elected to receive the pension payable under this Part.

2. Subject to the other provisions of this part, the pension payable to a Judge to whom this part applies and who has completed not less than seven years of service for pension shall be,—

(a) for service as Chief Justice in any High Court, Rs. 43890 per annum for each completed year of service;

(b) for service as any other Judge in any High Court, Rs. 34350:

Provided that the pension under this paragraph shall in no case exceed Rs. 48,000 per annum in the case of any other Judge.

* * * * *

8. Notwithstanding anything contained in the foregoing provisions of this Part, the pension payable to a Judge who has completed fourteen years of service for pension, including not less than six years of service as Chief Justice of one or more of the High Courts, shall be Rs. 5,40,000 per annum.

9. Where a Judge to whom this Part applies retires or has retired at any time after the 26th January, 1950 without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. 1,57,670 per annum shall be payable to such a Judge:

Provided that nothing in this paragraph shall apply—

(a) to an additional Judge or acting Judge; or

* * * * *

PART II

1. The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension; and

(b) the additional pension, if any, to which he is entitled under paragraph 3:

Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 5,40,000 per annum in the case of a Chief Justice and Rs. 4,80,000 per annum in the case of any other Judge.

3. If such a Judge has completed not less than seven years of service for pension in a High Court, he shall be entitled to an additional pension in accordance with the following scale:—

	Per annum Rs.
For seven completed years of service for pension	34,696;
For eight completed years of service for pension	41,642;

	Per annum Rs.
For nine completed years of service for pension	48,559;
For ten completed years of service for pension	55,508;
For eleven completed years of service for pension	62,462;
For twelve or more completed years of service for pension	69,402.
* * * * *	
EXTRACTS FROM THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958	
(41 OF 1958)	
* * * * *	

2. In this Act, unless the context otherwise requires,—

Definitions.

* * * * *

(g) "service as a Judge in India" means service rendered either in the Federal Court or in the Supreme Court or in any such Court and in one or more of the High Courts, and "Judge in India" and "service for pension as a Judge in India" shall be construed accordingly;

* * * * *

4A. A Judge shall be entitled in his entire service including the period of service rendered in a pensionable post under the Union or a State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, to the extent of the maximum period prescribed for encashment of such leave under the All India Service (Leave) Rules, 1955.

Leave
encashment.

* * * * *

9. (1) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be for the first forty-five days of such leave a rate equal to the monthly rate of the salary and thereafter, in the case of the Chief Justice fifty per cent. of the monthly rate of his salary and in the case of each of the other Judges, fifty-five per cent. of the monthly rate of his salary:

Leave
allowances.

Provided that where leave on full allowances is granted to a Judge on medical certificate, the monthly rate of leave allowances shall, for the first one hundred and twenty days of such leave, be a rate equal to the monthly rate of his salary.

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be in the case of the Chief Justice, twenty-five per cent. of the monthly rate of his salary, and in the case of each of the other Judges, twenty-seven and a half per cent. of the monthly rate of his salary:

Provided that the monthly rate of leave allowances payable to a Judge in respect of leave credited to his leave account under sub-section (2) (a) (iii) of section 4 shall not exceed the rate of leave allowances admissible to him therefor as a Judge of a High Court and shall be payable by the State Government concerned.

* * * * *

13. Subject to the provisions of this Act, a pension shall be payable in accordance with the provisions of Part I of the Schedule to a Judge of the Supreme Court on his retirement if, but only if,—

Pension
payable to
Judges.

(a) he has attained the age of sixty-five years; or

(b) his retirement is medically certified to be necessitated by health.

Explanation.—In this section, "Judge" means a Judge who is not a member of the Indian Civil Service or has not held any other pension post under the Union or a State and

includes a person who was in service as a Judge on the 20th May, 1954, and also includes a Judge who being a member of the Indian Civil Service or having held any other pensionable post under the Union or a State has elected to receive the pension payable under part I of the Schedule.

* * * * *

Special provisions for pension in respect of Judges who are members of service.

14. (I) Every Judge—

(a) who is a member of the Indian Civil Service shall, on his retirement, be paid a pension in accordance with the provisions of Part II of the Schedule;

(b) who is not a member of the Indian Civil Service but held any other pensionable post under the Union or a State shall, on his retirement, be paid a pension in accordance with the provisions of Part III of the Schedule;

* * * * *

Family pension and gratuity.

16A. (I) The rules, notifications and orders for the time being in force with respect to the grant of family pension in relation to an officer of the Central Civil Services, Class I, shall apply to the grant of family pension in relation to a Judge who, being in service on or after the 1st day of October, 1974, dies, whether before or after retirement in circumstances to which section 16 does not apply.

(2) The rules, notifications and orders for the time being in force with respect to the grant of death-cum-retirement gratuity benefit to or in relation to an officer of the Central Civil Services, Class I (including the provisions relating to deductions from pension for the purpose) shall apply to or in relation to the grant of death-cum-retirement gratuity benefit to or in relation to a Judge who, being in service on or after the 1st day of October, 1974, retires, or dies in circumstances to which section 16 does not apply, subject to the modifications that—

(i) the minimum qualifying service for the purpose of entitlement to the gratuity shall be two years and six months;

(ii) the amount of gratuity shall be calculated on the basis of ten days salary for each completed six months period of service as a Judge;

Explanation.— the expression "Judge" has the same meaning in section 13.

* * * * *

Conversion of sterling pension into rupees.

18. Pensions expressed in sterling only shall, if paid in India, be converted into rupees at such rate of exchange as the Central Government may, from time to time, specify in this behalf.

* * * * *

Provident Fund.

20. Every Judge shall be entitled to subscribe to the Central Provident Fund (Central Services):

Provided that a Judge who is a member of the Indian Civil Service or has held any other pensionable civil post under the Union or a State shall continue to subscribe to the provident fund to which he was subscribing before his appointment as a Judge:

Provided further that a Judge who was appointed before the commencement of this Act may continue to subscribe to the provident fund to which he was subscribing immediately before such commencement.

* * * * *

THE SCHEDULE

(See sections 13 and 14)

PENSIONS OF JUDGES

PART I

1. The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other pensionable post under the Union or a State and also apply to a person who was in service as a Judge on the 20th May, 1954, and to a Judge who being a member of the Indian Civil Service or having held any other pensionable post under the Union or a State, has elected to receive the pension payable under this Part.

* * * * *

PART II

1. The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge in India being treated as service therein, and

(b) an additional pension of Rs. 33,795 per annum for each completed year of service for pension in the Supreme Court.

BILL NO. 230 OF 2015

A Bill further to amend the Indian Trusts Act, 1882.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Indian Trusts (Amendment) Act, 2015.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution
of new
section for
section 20.

2. For section 20 of the Indian Trusts Act, 1882 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

2 of 1882.

Investment
of trust-
money.

‘20. Where the trust-property consists of money and cannot be applied immediately or at an early date to the purposes of the trust, the trustee shall, subject to any direction contained in the instrument of trust, invest the money in any of the securities or class of securities expressly authorised by the instrument of trust or as specified by the Central Government, by notification in the Official Gazette:

Provided that where there is a person competent to contract and entitled in possession to receive the income of the trust-property for his life, or for any greater

estate, no investment in any of the securities or class of securities mentioned above shall be made without his consent in writing.

Explanation.—For the purposes of this section, the expression “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.’

42 of 1956.

3. In section 20A of the principal Act, in sub-section (1), the proviso shall be omitted.

Amendment
of section
20A.

STATEMENT OF OBJECTS AND REASONS

The Indian Trusts Act, 1882 (2 of 1882) provides for the law relating to Private Trusts and Trustees. Section 20 of the Act states that where the trust-property consists of money and cannot be applied immediately or at an early date to the purpose of the trust, the trustee is bound, subject to any direction contained in the instrument of trust, to invest the money in securities enumerated in clauses (a) to (f) of the said section. Clause (a) of section 20 provides for investing the trust-money in promissory notes, debentures, stock and other securities of the United Kingdom of Great Britain and Ireland and clause (b) for bonds, debentures, and annuities charged or secured by Parliament of the United Kingdom. The Law Commission of India, in its 17th Report has, *inter alia*, recommended for amendment of section 20 and for deletion of the provisions for the securities which have become obsolete.

2. The Indian Trusts (Amendment) Bill, 2015 seeks to amend sections 20 and 20A of the said Act. The proposed amendments to section 20 empowers the Central Government to notify a class of securities, for the purposes of investing trust-money and it does away with the requirement of case to case approval by the Government of “any security” and provides to the trustees greater autonomy and flexibility to take decisions on investment of trust-money based on their assessment of the risk return trade off and the relevant provisions of the trust deed. It would be consistent with the current economic environment and the present shift from a merit based regulatory regime to a disclosure based regulatory regime.

3. The Bill seeks to enable the Central Government to notify a class of securities for the purposes of investment of trust-money by the trustees in such securities and it deletes reference to the outdated and obsolete securities from the Act.

4. The Bill seeks to achieve the above objects.

ARUNJAITLEY

NEW DELHI;
The 3rd August, 2015.

ANOOP MISHRA
Secretary General.